

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/1/05
A Bill

HOUSE BILL 1994

5 By: Representative Bradford
6 By: *Senator Faris*
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9 **For An Act To Be Entitled**

10 AN ACT TO CLARIFY THE REQUIREMENTS FOR STATE
11 AGENCIES WHEN CONTRACTING FOR PROFESSIONAL AND
12 CONSULTANT SERVICES WHEN THE SERVICES ARE
13 IMPACTED BY ARRANGEMENTS RELATED TO PATENTS,
14 COPYRIGHTS, AND OTHER PROPRIETARY INFORMATION
15 BELONGING TO INSTITUTIONS OF HIGHER EDUCATION;
16 AND FOR OTHER PURPOSES.

17
18 **Subtitle**

19 CLARIFY THE REQUIREMENTS FOR CONTRACTING
20 FOR PROFESSIONAL AND CONSULTANT SERVICES
21 WHEN THE SERVICES ARE IMPACTED BY
22 ARRANGEMENTS RELATED TO PATENTS,
23 COPYRIGHTS, AND OTHER PROPRIETARY
24 INFORMATION.
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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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29 SECTION 1. Arkansas Code § 19-11-717 is amended to read as follows:
30 19-11-717. Institutions of higher education.

31 (a) Notwithstanding anything in this subchapter to the contrary, it
32 shall not be a violation of § 19-11-709, or a conflict of interest, or a
33 breach of ethical standards for:

34 (1) An institution of higher education to contract with a person
35 or firm in which an employee or former employee of such institution has a
36 financial interest; or



1 (2) An employee or former employee of an institution of higher
2 education to participate directly or indirectly in any matter pertaining to
3 any contract or subcontract or any solicitation or proposal therefor between
4 the institution and a person or firm in which such employee or former
5 employee has a financial interest;
6 If, in either of the foregoing events, such contract or subcontract,
7 solicitation, or proposal involves patents, copyrights, or other proprietary
8 information in which the institution and the employee or former employee have
9 rights or interests; provided that any such contract or subcontract shall be
10 approved by the governing board of such institution in public meeting.

11 (b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq. or
12 in § 19-11-1001 through 1012 shall prevent a state agency from contracting
13 for goods or services, including professional or consultant services, with an
14 organization that employs or contracts with a regular, full-time, or part-
15 time employee of a public institution of higher education in situations in
16 which the employee of the institution of higher education will provide some
17 or all of the goods or services under the contract. Any organization or
18 state agency entering into a contract described under subsection (b) of this
19 section shall comply with the provisions of the Arkansas Procurement Law, §
20 19-11-201 et seq. and §§ 19-11-1001 through 1012 to the extent that the
21 provisions do not conflict with this section.

22 (2) An employee of an institution of higher education who provides
23 goods or services to a state agency through his or her association with an
24 organization that has a contract with the state agency to provide goods or
25 services shall obtain the requisite approvals under the policies of the
26 institution of higher education by which he or she is employed and comply
27 with all provisions of this subchapter.

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29 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
30 General Assembly of the State of Arkansas that a question has arisen
31 concerning the ability of state agencies to contract with business
32 organizations for professional or consultant services in situations where the
33 services will be provided, in whole or in part, by persons who are associated
34 with the business organization and who are also employees of the public
35 institution of higher education; that employees of institutions of higher
36 education engage in research that results in patents, copyrights, or

1 proprietary interests; that under the policies of most institutions of higher
2 education, the patents, copyrights, and proprietary interests are owned by
3 the institution and are often commercialized in a manner that encourages and
4 enhances economic development in the State of Arkansas through business
5 organizations in which the institutions of higher education and some of their
6 employees have an interest; that it is generally accepted under the policies
7 of public institutions of higher education that employees whose inventions
8 result in patents, copyrights, or other proprietary interests retain a right
9 to receive a portion of the income from commercialization of these inventions
10 and are allowed to devote a portion of their time to outside employment or
11 consulting contracts with the business organizations that have licensed their
12 inventions; that state agencies currently are uncertain whether they may
13 contract for goods or services with business organizations to which employees
14 of institutions of higher education provide services through arrangements
15 related to patents, copyrights, or other proprietary interests; that such
16 uncertainty has the effect of depriving state agencies of the benefit of new
17 technology developments through public institutions of higher education; and
18 that this act is immediately necessary in order to clarify the law so that
19 state agencies are not unreasonably restricted in their ability to enter into
20 necessary contractual arrangements that have positive impact on the economic
21 development of the State of Arkansas and promote the development of new
22 technologies. Therefore, an emergency is declared to exist and this act
23 being immediately necessary for the preservation of the public peace, health,
24 and safety shall become effective on:

25 (1) The date of its approval by the Governor;

26 (2) If the bill is neither approved nor vetoed by the Governor,
27 the expiration of the period of time during which the Governor may veto the
28 bill; or

29 (3) If the bill is vetoed by the Governor and the veto is
30 overridden, the date the last house overrides the veto.

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32 */s/ Bradford*
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